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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,358	04/09/2001	Karel van den Berg	8553/213	1711

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EXAMINER

SMITH, KIMBERLY S

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 02/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/828,358

Applicant(s)

BERG, KAREL VAN DEN

Examiner

Kimberly S Smith

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2002 and 10 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 31-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 62-67 and 69-74 is/are allowed.
- 6) ☒ Claim(s) 1, 31-61 and 68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 04 December 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/04/02 have been fully considered but they are not persuasive. In regards to the Applicant's statement in reference to Anderson not teaching the means for weighing the fodder or drink present in the feed unit: with respect to claim 1, this argument is not found persuasive. According to *Merriam Webster's Tenth Edition dictionary*, the term "weigh" is defined as to measure or apportion (a definite quantity). In the broadest reading of the term "weighing", the Anderson reference does teach measuring a definite quantity of feed, and therefore the argument with respect to claim 1 is not found persuasive. However, with the additional language in claim 31 wherein the weighing means is for "measuring the weight of the feed", the Anderson reference can not be applied even in the broadest reading of the term "weigh" as Anderson only measures a definite quantity and does not measure the actual weight of the feed in the unit.

Election/Restrictions

2. Claim 31 is generic and will be allowable upon correction of the 112 Second Paragraph rejection. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 35, 36, 38-40, 42-44, 50-56, 58 and 61, directed to the species are no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim.

Drawings

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 12/04/02 have been accepted. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 31-60, 61, 68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 31 recites the limitation "said feed supporting device" in line 5. There is insufficient antecedent basis for this limitation in the claim. Replacing "supporting" with - - supplying- - would obviate this rejection.

7. Claim 42 recites the limitation "said measuring means" in line 5. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 60 recites the limitation "said deterring device" in line3. There is insufficient antecedent basis for this limitation in the claim. Replacing "device" with - -means- -would obviate this rejection.

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9. Claim 61 recites the limitation "food" in line 3 and "said closing means" in lines 11-12.

There is insufficient antecedent basis for this limitation in the claim. Replacing "food" with - - feed- - and "means" with - -member- -, respectively would obviate this rejection.

10. Further regarding claim 61, it is unclear at line 10 how the identification means is able to identify animals going to the feed unit "with the intent to take feed therefrom". It is questioned how a device is capable of identifying the intent of an animal?

11. Claim 68 recites the limitation "said animal identification device" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim. Replacing "device" with - - means- - would obviate this rejection.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Anderson, US Patent 5,255,631.

Anderson discloses a feed metering device for providing feed in measured portions to an animal comprising a feed unit, entrance opening, feed supplying device, weighing means wherein said feed unit is connected to the feed supplying device by an angular displacement means which comprises said weighing means, further comprising a supporting bracket for the feed unit.

Allowable Subject Matter

14. Claims 62-67, 69-74 are allowed.
15. Claims 31-61 and 68 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
16. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach or render obvious the use of a feed metering device in which the feed unit is connected to the feed supporting device by a means for angular displacement which in part comprises the weighing means. With regards to the Feed Weight Device disclosed in International Application WO 95/23503, the weighing means of Wendling measures the weight as a vertical component of force and does not have a horizontal or angular component to the force (reference page 14, lines 11-16). The feed unit of Wendling is not considered angularly displaceable as it is fixedly attached to bolts and therefore the supporting means does not include a means for angular displacement as a part of the weighing means.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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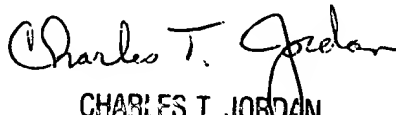
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S Smith whose telephone number is 703-308-8515. The examiner can normally be reached on Monday thru Friday 10:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T Jordan can be reached on 703-306-4159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

kss
February 12, 2003


CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600